

**REMARKS**

A petition to extend the time for response by one (1) month is enclosed herewith.

Claims 10-29 were previously pending in the application. By the Amendment, Claims 10, 19 and 28 are currently amended, Claim 11 is canceled without prejudice, and Claims 12-18, 20-27 and 29 remain unchanged.

Applicants gratefully acknowledge the Examiner's granting a personal interview on October 22, 2008. The Examiner and the Applicants' Representatives discussed allowable subject matter found in the dependent claims (recited in the Office Action dated 9/5/08) and how this subject matter could be added to the existing independent claims. Also discussed was overcoming the § 112, second paragraph rejection by taking out the "closed position" limitation in claim 10. Further discussions included adding a cap portion description to the specification and adding a limitation in one or more of the independent claims stating that the control arrangement/cap portion projects above and past a plane defined by the door when the door is in its closed position. The Examiner noted that further review and searching would likely be required for the new limitation.

Applicants also gratefully acknowledge the allowance of Claims 16 and 18 and indication that Claims 20-27 include allowable subject matter. In the Official Action dated 9 May 2008, Claims 11-15 were indicated to recite allowable subject matter and this was confirmed in the interview.

Allowable original Claim 11 has been rewritten in independent form as claim 10 to include all the limitations of the base claim. Therefore, independent Claim 10 is allowable. Dependent Claims 12-15 and 17 depend from independent Claim 10 and are allowable for the same and other reasons. Rewriting of Claims 20-27 is

being held in abeyance pending the outcome of further examination of Claim 19, as amended.

Claims 10-15 and 17 stand rejected under 35 USC §112, second paragraph as being indefinite for omitting elements regarding elements that form the closed position with the door. By the present amendment, language giving rise to the rejection under §112, second paragraph, has been deleted from Claim 10 and it is respectfully asserted that the rejection under 35 USC §112, second paragraph is now moot and should be withdrawn.

Further, the specification is under objection for failing to provide antecedent basis for the cap portion and its positioning with respect to other features of the compartment discussed in the specification. By the present amendment, the Applicants have amended the specification to include discussion of the cap portion and its surroundings without introduction of new matter.

The claims stand rejected under the cited prior art of record. Specifically, Claims 10 and 17 were rejected under 35 USC §102(b) as being anticipated by US Patent No. 961022 to Teller et al. (Teller '022), or, in the alternative, rejected under 35 USC §103(a) as being unpatentable over Teller '022 in view of US Patent no. 2596706 to McClure (McClure '706). Claim 19 was rejected under 35 USC §103(a) as being unpatentable over Teller '022 in view of McClure '706. Claims 28 and 29 were rejected under 35 USC §103(a) as being unpatentable over McClure '706.

Independent Claim 10 recites a door for a refrigerating appliance including an outer wall and an inner wall connected together along longitudinal edges and a first closure element fastened to a transverse edge of the outer wall and a transverse edge of the inner wall. The first closure element together with the outer wall and the inner wall delimit an insulating intermediate space. The inner wall is

constructed to be shorter in the longitudinal direction than the outer wall and the first closure element bridges the difference in length between the inner wall and the outer wall. The first closure element is configured for covering at least one of a control arrangement and a condition-indicating panel operatively associated with the refrigerating appliance, with the first closure element having a stepped cross-section with a first portion fastened to the transverse edge of the outer wall, a second portion fastened to the transverse edge of the inner wall and a flank portion connecting the first and second portions, the flank portion compensating for the difference in length between the inner wall and the outer wall.

Independent Claim 19 recites a refrigerating appliance including a door, including a body against which the door abuts when the door is in a closed position. The door includes an outer wall and an inner wall connected together along longitudinal edges and defining a door plane when the door is in the closed position. A first closure element is fastened to a transverse edge of the outer wall and a transverse edge of the inner wall, wherein the first closure element together with the outer wall and the inner wall delimits an insulating intermediate space. The inner wall is constructed to be shorter in the longitudinal direction than the outer wall, and the first closure element bridges the difference in length between the inner wall and the outer wall forming a space between the body and the first closure element. Also included is at least one of a control arrangement and a condition-indicating panel mounted at the body at the height of the first closure element in the space and formed as an uninsulated cap portion extending outwardly beyond the door plane when the door is in a closed position.

Independent Claim 28 recites a refrigerating appliance including a cooling compartment for retaining therein items that are to be cooled. The cooling compartment includes a back wall, an access opening, and a side wall, the side wall having an inner surface, an outer surface, and a cap portion. The cap portion extends between and is connected to each of the inner and outer surfaces of the

side wall, with the cap portion forming a termination of the side wall as viewed in a depth direction from back wall toward the access opening. The inner surface, the outer surface and the cap portion together delimit a volume therebetween in which insulating material is disposed. The side wall is located at a side of the cooling compartment as viewed in a lateral direction perpendicular to the depth direction from back wall toward the access opening. Also included is an indicia bearing portion, the indicia bearing portion being located outwardly of the cap portion of the side wall of the cooling compartment as viewed in the depth direction from back wall toward the access opening and the indicia bearing portion displaying thereon an indicia. Further provided is a door, the door being movable between open and shut positions for respectively permitting access via, and closing off, the access opening of the cooling compartment. The door defines a plane extending between the side walls and across the access opening when closing off the access opening and having a lateral extent in the lateral direction such that the door overlies the indicia on the indicia bearing portion in the closed position of the door, and wherein the cap portion extends beyond the plane extending between the side walls and across the access opening when the door is in a shut position closing off the access opening.

Teller '022 is directed to a refrigerator having a door covering inner compartment as seen in Figure 1. As seen in Figure 3 the door is formed by sheet metal plates 12 and 14 spaced apart by insulating material 10. The door interacts with the body portion of the refrigerator to close an access opening to the interior compartment. The door mates with the body in an angular relationship as seen in Figure 3.

McClure '706 also discloses a door mounted to a refrigerator. There, cap portions are illustrated at 17 in Figure 4 and include an uninsulated space. As also seen in Figure 4, the cap portion does not extend beyond the plane of the door

when the door is closed. The door plane is illustrated by the unnumbered bottom wall of the refrigerator in Figure 4.

Accordingly, as discussed during the interview, neither Teller '022 nor McClure '706 disclose the present invention as recited in the amended claims. Therefore, a combination of Teller '022 and McClure '706 cannot result in the claimed invention.

For these and other reasons, Teller '022 and McClure '706, either alone or in combination, do not disclose, teach or suggest the subject matter defined by independent Claim 10. Therefore, Claim 10 is allowable. Claims 11-15 and 17 depend from Claim 10 and are allowable for the same reasons and also because they recite additional patentable subject matter.

For these and other reasons, Teller '022 and McClure '706, either alone or in combination, do not teach or suggest the subject matter defined by independent Claim 19. Therefore, Claim 19 is allowable. Claims 20-27 depend from Claim 19 and are allowable for the same reasons and also because they recite additional patentable subject matter.

For these and other reasons, Teller '022 and McClure '706, either alone or in combination, do not teach or suggest the subject matter defined by independent Claim 28. Therefore, Claim 28 is allowable. Claim 29 depend from Claim 28, and is allowable for the same reasons and also because additional patentable subject matter is recited therein.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of Claims 10 and 12-29 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,



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